GOVERNOR'S OFFICE OF
BUDGET AND PROGRAM PLANNING

Fiscal Note 2009 Biennium

Bill #	HB0552	**Title:**	Real estate transfer tax
Primary Sponsor:	Erickson, Ron	**Status:**	As Introduced

- ☐ Significant Local Gov Impact
- ☑ Needs to be included in HB 2
- ☑ Technical Concerns
- ☐ Included in the Executive Budget
- ☐ Significant Long-Term Impacts
- ☐ Dedicated Revenue Form Attached

FISCAL SUMMARY

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Expenditures:				
General Fund	$348,135	$307,923	$307,923	$307,923
Other	$0	$0	$0	$0
Revenue:				
General Fund	$0	$0	$0	$0
Enterprise Fund	$14,778,637	$14,778,637	$14,778,637	$14,778,637
Net Impact-General Fund Balance	($348,135)	($307,923)	($307,923)	($307,923)

Description of Fiscal Impact: Under proposed law, a tax of 1% will apply on certain transfers of real property. A general $500,000 exemption will apply to all non-exempt transactions except subdivisions in excess of 1,000 acres. The proceeds from the tax will be distributed 100% into the affordable housing loan account established under 90-6-133, MCA.

FISCAL ANALYSIS

Assumptions:

Department of Revenue

1. The bill is effective on passage and approval, and applicable to transactions recorded after June 30, 2007.
2. This fiscal note does not account for the exemption elimination for subdivisions greater than 1,000 acres.
3. This fiscal note does not account for exempt transactions in section 4, except subsections (a), (c), and (e).

Revenue

4. The number of realty transfer certificates from transactions during calendar year 2004 through calendar year 2006 with value greater than $500,000 is 4,818.
5. The total value in excess of $500,000 per sale in calendar year 2004 through calendar year 2006 is $4,433,593,386.
6. The average excess value per sale is $920,214 {$4,433,593,386 / 4,818}.
7. The average number of sales per year with value greater than $500,000 is 1,606 (4,818 / 3).
8. The average excess value per year for calendar year 2004 through calendar year 2006 is $1,477,863,684 ($920,214 X 1,606).
9. Projected excess value is $1,477,863,684 per year in FY 2008 through FY 2011.
10. Under proposed law, the projected tax will be $14,778,637 per year for FY 2008 through FY 2011 ($1,477,863,684 x 0.01).
11. Under proposed law, the proceeds from the tax will be distributed 100% into the affordable housing revolving loan account in the housing authority enterprise fund (90-6-133, MCA).

Expenditures

12. This fiscal note assumes the proposed law will require Department of Revenue (DOR) to assess current market value of each parcel transferred. The assessment will be done as directed in 15-8-111, MCA.
13. The assessment will require 6.00 FTE per year. Therefore, DOR will require $271,747 in additional personal services each year in FY 2008 through FY 2011. However, if proposed law allowed DOR to define market value as current year reappraisal value, additional personal services would not be required.
14. Due to additional FTE, training, and forms, DOR will have $40,988 in additional operating expenses in FY 2008, and $36,176 in additional operating expenses each year for FY 2009 through FY 2011.
15. Due to additional FTE, DOR will have $35,400 in additional equipment expenses in FY 2008.
16. In total, DOR will have $348,135 in additional administrative expenses for FY 2008 ($271,747 + $40,988 + $35,400).
17. In total, DOR will have $307,923 in additional administrative expenses annually for FY 2009 through FY 2011 ($271,747 + $36,176).

Department of Commerce (DOC)

18. The affordable housing loan account will be administered by the Department of Commerce, Housing Division.
19. The revenue flows into the affordable housing loan account will require the Housing Division to enlarge the administrative staff needed to manage and service the loans authorized in 90-6-133, MCA. It is assumed 3.00 FTE will be needed to meet the increased workload. For the 3.00 FTE, the estimated personal services costs are $139,682 in FY 2008, $139,830 in FY 2009, $143,326 in FY 2010, and $146,909 in FY 2011.
20. An increase in the Housing Division operating expenses is also assumed with the addition of 3.00 new FTEs. The estimated operating expenses associated with the 3.00 FTE is $39,480 in FY 2008, $28,727 in FY 2009, $ 29,445 in FY 2010, and $30,181 in FY 2011.
21. Operating expenses are assumed to be paid for by the monies generated by the real estate transfer tax.
22. The estimated amount available for loans is $14,599,475 ($14,778,637 – 179,162) in FY 2008, $14,610,080 ($14,778,637 – $168,557) in FY 2009, $14,605,866 ($14,778,637 – 172,771) in FY 2010, and $14,601,547 ($14,778,637 – 177,090) in FY 2011.

	FY 2008 Difference	FY 2009 Difference	FY 2010 Difference	FY 2011 Difference
Fiscal Impact:				
FTE	9.00	9.00	9.00	9.00
DOR Expenditures:				
Personal Services	$271,747	$271,747	$271,747	$271,747
Operating Expenses	$40,988	$36,176	$36,176	$36,176
Equipment	$35,400	$0	$0	$0
TOTAL Expenditures	$348,135	$307,923	$307,923	$307,923
DOR Funding of Expenditures:				
General Fund (01)	$348,135	$307,923	$307,923	$307,923
TOTAL Funding of Exp.	$348,135	$307,923	$307,923	$307,923
DOC Expenditures:				
Personal Services	$139,682	$139,830	$143,326	$146,909
Operating Expenses	$14,638,955	$14,638,807	$14,635,311	$14,631,728
TOTAL Expenditures	$14,778,637	$14,778,637	$14,778,637	$14,778,637
DOC Funding of Expenditures:				
Other (Enterprise Fund)	$14,778,637	$14,778,637	$14,778,637	$14,778,637
TOTAL Funding of Exp.	$14,778,637	$14,778,637	$14,778,637	$14,778,637
Revenues:				
General Fund (01)	$0	$0	$0	$0
Enterprise Fund (06)	$14,778,637	$14,778,637	$14,778,637	$14,778,637
TOTAL Revenues	$14,778,637	$14,778,637	$14,778,637	$14,778,637
Net Impact to Fund Balance (Revenue minus Funding of Expenditures):				
General Fund (01)	($348,135)	($307,923)	($307,923)	($307,923)
Enterprise Fund (06)	$0	$0	$0	$0

Effect on County or Other Local Revenues or Expenditures:

1. Under proposed law, the county treasurer in each county will collect the tax on transactions recorded in their county. In several counties this may involve considerable additional effort and expense. The fifteen counties with the largest number of transactions for calendar year 2004 through calendar year 2006 are listed along with the excess value of transactions in Table 1.

Table 1
Counties, Number of Sales, Excess Value, and 1% of Excess Value
CY 2004 Through CY 2006

Rank	County	Per Year Average Number of Sales Over $500,000	Per Sale Average Value in Excess of $500,000	Per Year Average Excess Value from All Sales	1% of Per Year Average Excess Value
1	Gallatin	439	$ 665,301	$ 291,845,472	$ 2,918,455
2	Flathead	275	893,042	245,884,192	2,458,842
3	Madison	260	1,430,823	372,013,900	3,720,139
4	Missoula	115	1,058,174	121,337,251	1,213,373
5	Yellowstone	111	688,864	76,463,950	764,639
6	Ravalli	93	1,083,885	101,162,600	1,011,626
7	Lake	73	1,116,787	81,525,484	815,255
8	Lewis & Clark	47	622,922	29,069,694	290,697
9	Cascade	37	1,605,949	59,420,103	594,201
10	Park	36	521,542	18,601,667	186,017
11	Lincoln	23	888,274	20,134,200	201,342
12	Carbon	15	847,166	12,989,879	129,899
13	Beaverhead	10	751,610	7,265,560	72,656
14	Sanders	9	409,639	3,823,300	38,233
14	Silver Bow	9	414,869	3,733,817	37,338
15	Jefferson	8	470,660	3,922,163	39,222

Technical Notes:

1. Section 4 provides that the sale of agricultural land for agricultural purposes is exempt from the tax. However, section 9 amends 15-7-307, MCA, to require disclosure of considerations paid on sales of agricultural land used for agricultural purposes.
2. The bill does not exempt sales of forest land used for producing timber from the tax. However, under current law (15-7-307, MCA) certificates filed on transfers of forest land used for producing timber need not disclose considerations paid on transfer.
3. By sections 1 and 2, transfers of growing (standing) timber are taxable under proposed law. DOR does not currently value growing timber, it only values the *growth potential* of forest land.
4. Under current law, the realty transfer certificates are held in confidence by the county clerk and recorder, and DOR. The county treasurer is not granted access to the certificates in full (15-7-308, MCA).
5. In section 2 (5), if the property is located in more than one county, DOR will hold the tax proceeds in trust until "determining the appropriate allocations", and then deposit the tax into the revolving loan account. It might be cleaner if the county treasurer would deposit the tax into the revolving loan account directly.
6. Under proposed law, the tax is collected by the county treasurer. The tax must be collected before the transfer is recorded by the county clerk and recorder. Proposed law does not direct the county treasurer to inform the clerk and recorder.
7. Section 3 provides that the first $500,000 of value is exempt from taxation; except for property that is subdivided from a tract or parcel that was at least 1,000 acres and held in undivided ownership prior to the

sale of subdivided property. Assuming the tax will be substantially passed through to the buyers of the subdivided parcels, this might imply that the buyer of a lot cut from a block larger than 1,000 acres will pay tax even though the price paid for the lot is less than $500,000.

8. Section 5 (2) (a) refers to 15-1-211, MCA, in the case of taxpayer appeal. Since this tax would be administered primarily at the county level, and by the property assessment division of DOR, the reference should be to 15-7-102, 15-15-102, and 15-2-301, MCA.

Sponsor's Initials	*Date*	*Budget Director's Initials*	*Date*